



INTERNAL AUDIT SUBSTANTIVE TESTING PLANNING AND ZONING

March 4, 2002

Roanoke City Council Audit Committee
Roanoke, Virginia

We have completed our audit of Proffered Conditions and the Zoning Map. Our audit was performed in accordance with generally accepted government auditing standards.

BACKGROUND

The Department of Planning, Building and Development is responsible for administering and enforcing all zoning ordinances, including those with conditions proffered by the property owner. City Code, section 36.1-697 gives the Zoning Administrator authority to administer and enforce proffered conditions.

Upon the passage of a zoning ordinance by Council, City Code, section 36.1-5 requires the City Engineer to update the zoning map upon notice from the City Clerk. When a zoning ordinance contains proffered conditions, Engineering makes note of the existence of conditions on the zoning map. Conditions typically proffered are items such as landscaping improvements and restrictions on exterior signage. Periodically, Engineering distributes updated copies of the zoning map to selected City Departments and makes them available for citizen viewing. Attorneys, real estate appraisers and agents also frequently use the maps to obtain zoning specifications for various properties in the City.

A key business of the Department of Planning, Building and Development is to provide assistance to the City's land development regulatory boards. One of these boards, the Board of Zoning Appeals (BZA) hears citizen requests for special exception uses. The BZA is empowered to approve or reject requests and may set conditions for approval. This Board considered 261 requests for special exception uses between 1995 and 2001. Special exception uses for operating a business from a residential home are usually subject to a limited term of up to five years, at which point the person must reapply. In these cases, the term limit provides an opportunity to have neighborhood input on the impact of operating a business in a residentially zoned area. When a person reapplies, property owners and neighborhood groups are invited to speak to the BZA regarding the proposed exception.

PURPOSE

The purpose of this audit was to determine if adopted zoning ordinances are recorded accurately to the zoning map, and to identify and evaluate compliance with proffered conditions and Board of Zoning Appeals conditions.

SCOPE

We looked at ordinances and other zoning documents from January 1, 1995-September 1, 2001. We reviewed processes in place as of November 1, 2001.

METHODOLOGY

We gained an understanding of the areas under audit through reviews of existing documentation, City Code, and interviews with management and employees in the Engineering department and the Department of Planning, Building and Development. Accordingly, we developed tests to determine if ordinances involving rezoning were updated accurately to the official zoning map and if board of zoning appeals orders are being followed.

RESULTS

We selected a sample of zoning ordinances containing proffered conditions. We evaluated approximately 30 of these conditions by driving to properties and concluded that all proffered conditions sampled had either been complied with or the property was still awaiting development. We compared adopted ordinances from the City Clerk's office to the official zoning map kept in Engineering and determined that zoning changes were substantially made in an accurate and timely fashion.

We noted the following item in the course of our audit:

Finding 01: BZA Special Exception Uses Expired

The Department of Planning, Building and Development has inadequate procedures in place to ensure term limits for special exception uses are enforced. In six of 15 (40%) BZA approved special exception uses we reviewed, the term limit for the special exception use had expired but the business was still operating with a valid business license. As a result, the BZA does not have the opportunity to review the impact of the special exception use on the affected neighborhood.

Recommendation 01

In our discussions with management in the Department of Planning, Building and Development, we agreed that special exception uses allowing businesses to operate out of homes should be limited in terms of time so that the impact of the business on the neighborhood can be reviewed. We talked with the Commissioner of the Revenue about withholding business licenses from businesses operating after their BZA exception expires. We found that the business license is basically a receipt and cannot be effectively used as a regulatory mechanism. If a business pays its business license

tax, it has complied with business license tax requirements and the Commissioner must issue the business license. The Department of Planning, Building and Development have agreed to further develop their procedures for monitoring expiration dates of BZA special exception uses. The Department of Planning, Building and Development will evaluate the feasibility of using the Accella Permits Plus system to manage special exception uses.

Management's Response 01

In January 2002, the Department of Planning, Building and Development researched special exception use files for home occupations dating from 1991 to present and compared them to current business license listings. We have found 24 cases that had expired special exceptions and still have active business licenses. When notified of the cases that need to be processed, the Chairman of the BZA instructed us to proceed with processing five per meeting (hopefully to complete before proposed new fees go into effect).

Certified letters were sent out to the first five cases on the list for the April hearing. To date, all five applicants have responded and obtained the necessary paperwork to be on the April agenda. Hopefully by July all the outstanding special exceptions will be resolved.

We have found that some of the expired exceptions are no longer in business. We have also found that others were confused because the City had issued them a business license.

CONCLUSION

Adopted zoning ordinances are recorded accurately to the zoning map, and proffered conditions are enforced properly. Time limits on Board of Zoning Appeals orders are not being followed.

We would like to thank the Department of Planning, Building and Development as well as the Engineering department for their cooperation and assistance during this audit.

Brian M. Garber
Auditor

Drew Harmon, CPA, CIA
Municipal Auditor